

IN THE COURT OF APPEALS OF TENNESSEE  
AT NASHVILLE  
November 14, 2012 Session

**ROBERT THOMAS EDMUNDS v. DELTA PARTNERS, L.L.C., ET AL.**

**Direct Appeal from the Circuit Court for Robertson County  
No. 74CCI-2009-CV24     Ross H. Hicks, Judge**

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**No. M2012-00047-COA-R3-CV - Filed December 18, 2012**

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HOLLY M. KIRBY, J., CONCURRING SEPARATELY

I agree fully with the majority's analysis in this case. I concur separately only to add a comment as to the portion of the opinion on the Fair Labor Standards Act.

In this case, we are affirming the trial court's award to Mr. Edmunds under the Fair Labor Standards Act and under his employment contract. It is unusual, though possible, for an employee whose duties would place him within the protections of the Fair Labor Standards Act to also have an enforceable claim for salary under an employment contract. It is highly unusual for such an employee to have a contractual salary of as much as *\$65,000 per year*. Here, the trial court found that Mr. Edmunds was not an administrative employee who was exempt from the FLSA. As noted by the majority, the issues raised on appeal do not include this ruling; that is the only reason why it is not among the issues we review on appeal. That is why we find ourselves with the anomaly of an opinion that enforces a contractual salary claim of \$65,000 per year as well as an FLSA claim.

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HOLLY M. KIRBY, JUDGE